C.S. 100 (1)

SINGLE BENCH

3

IN THE HIGH COURT OF JUDICATURE AT BILASPUR

WRIT PETITION NO. 2294 OF 2006

PETITIONER

M. L. Dubey, S/o Late Shri Ram Ratan Dubey, aged about 60 years, Occupation - Service, posted as Deputy Director, Department of Panchayat & Social Welfare, Raigarh, (Chhattisgarh)

R.N. No. 2323/06
Presented by Shri Akhilesh Dubey
Dated 11/5/06

VERSUS

RESPONDENTS

1. State of Chhattisgarh through Secretary, Department of Mahila Avam Bal Vikas Tatha, Panchayat & Samaj Kalyan Mantralaya, Dau Kalyan Singh Bhawan, Raipur (Chhattisgarh)
2. Sanchalak, Panchayat Avam Samaj Sewa, Chhattisgarh, Raipur (Chhattisgarh)
3. Collector, District Raigarh (Chhattisgarh)

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1/5/06
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WRIT PETITION UNDER ARTICLE 226/227 OF THE CONSTITUTION OF INDIA FOR ISSUANCE OF WRIT IN NATURE OF CERTIORARI, MANDAMUS, PROHIBITION AND OTHER SUITABLE WRIT OR WRITS, DIRECTION OR DIRECTIONS, ORDER OR ORDERS:

O/C

XI-HC-78

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक WP 2294/06 **सन् 200**

41

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

12.6.2006

Shri Manindra Shrivastava, Senior Advocate with Shri Afroz Khan, Advocate for the petitioner.

Shri Satish Kumar Gupta, Dy. Govt. Advocate for the State.

On the last date of hearing i.e. on 4.5.2006 Shri Ashutosh Singh Kachwaha, Government Advocate accepted the notice on behalf of the respondents and sought three weeks' time to file the reply, but even after elapse of three weeks' no reply has been filed.

Learned Sr. Advocate for the petitioner submitted that it is evident from the documents attached with the petition that the petitioner was appointed as 'teacher' and it is also evident from the orders issued from time to time by the respondent authorities, therefore, facts are not disputed. Moreover, time has already been granted to the respondents to file the reply, but no reply has been filed on behalf of the respondents and vide impugned order dated 28.4.2006 (Annexure P-1) the petitioner has been made to retire on 30.4.2006.

As the point involved in this petition is very short and facts are not disputed, therefore, this writ petition is being disposed of at the admission stage itself.

The main grievance of the petitioner, raised in this petition, is that vide order-dated 07.01.1971 passed by Director, Panchayat & Samaj Sewa, erstwhile Government of M.P. the petitioner was appointed as 'teacher' in blind, deaf & dumb school at Jabalpur in the pay scale of Rs.140—240/- and thereafter he was posted at different places from time to time till he was promoted as

O/C

XI-HC-78

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक ...WP 2294/06... **सन् 200**

(42)

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश —2—	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

Lecturer vide order dated 27.10.1989 (Annexure P-3). Further case of the petitioner is that he had served on the initial post of teacher and thereafter he was promoted on the next higher post i.e. Superintendent and posted at blind, deaf & dumb school at Bilaspur. The post of Superintendent is equivalent to the post of Assistant Director, both are administrative posts and as per provisions of C.G. Shaakiya Sewak (Adhivarshikiya Ayu) Adhiniyam, 1967 the petitioner is entitled to serve till he attains the age of 62 years, as he was initially recruited as 'teacher'. The said Adhiniyam of 1967 has been amended vide M.P. Shaskiya Sewak (Adhivarshikiya Ayu) Dwitiya Sanshodhan Adhiniyam, 1998, copy of notification is Annexure P-7, whereby an explanation has been appended to Section 2 of the said Adhiniyam of 1998 in which it has been mentioned that the teacher who is appointed to an administrative post by promotion or otherwise and who has been engaged in teaching for not less than 20 years provided he holds a lien on a post in the concerned teaching department, therefore, the petitioner is entitled for continuing till he attains the age of 62 years.

Perusal of record Annexure P-2 shows that the petitioner was appointed as teacher in the year 1971 and vide Annexure P-3 he was promoted on the post of Lecturer and thereafter vide order-dated 28.2.95 (Annexure P-4) he was promoted to the post of Superintendent. The explanation appended to Section 2 of the Adhiniyam of 1998 envisages that "teacher means a Government servant known by whatever name, if he is appointed for the purpose of teaching and on being promoted, even if he is appointed on any administrative and who has served at least 20 years continuously, he will be treated as teacher". From

O/C

XI-HC-78

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

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मामला क्रमांक ..WP.2297/06.. सन् 200

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश -3-	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

the record, which has been mentioned earlier, it is clear that the petitioner was appointed as 'teacher' in the year 1971 and as per averments made in the petition he has already served 20 years on the post of teacher and as per explanation appended to Section 2 of the Adhiniyam of 1998 even if the petitioner is presently working on the post of Deputy Director, Panchayat & Samaj Sewa, he has to be treated as a teacher for the purpose of his retirement age and it is an admitted position that the retirement age of a teacher is 62 years. Therefore, by all means the petitioner is entitled to continue in service till he attains the age of 62 years. Accordingly, the order impugned Annexure P-1 whereby the petitioner has been made to retire on 30.4.2006 on attaining the age of 60 years is illegal and contrary to the provisions of Section 2 of the Adhiniyam of 1998 and same is liable to be quashed.

In the result, the petition of the petitioner is allowed and impugned order dated 28.4.2006 (Annexure P-1) is quashed qua the petitioner.

In view of above order, M.W.P. No.1750/06 stands disposed of.

Cost is made easy.

Certified copy as per rules.

Sd/-
L.C. Bhadoo
Judge

17.6.06
15.6.06
5/7/11